

2.0 PURPOSE AND SCOPE

This document establishes implementation guidance for EPA support of the President's Fast Track Cleanup Program. It applies to bases identified by DoD as being closed or realigned under the Base Closure and Realignment Act of 1988 (P.L. 100-526) (BRAC I) or the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510) (BRAC II, III, and IV) where there is environmental contamination and property will be available for transfer to the community, i.e., Fast Track Cleanup locations.

In particular, this guidance:

- / Describes the statutory framework for the Fast Track Cleanup Program
- / Addresses EPA roles and responsibilities under the Fast Track Cleanup Program

- / Establishes accountability for resources provided to EPA by DoD under the Fast Track Cleanup Program Memorandum of Understanding
- / Establishes guidelines for coordination and interaction with DoD and state counterparts, Restoration Advisory Boards (RABs), and Local Redevelopment Authorities, and
- / Suggests methods for accelerating cleanups and effectively implementing the Fast Track Cleanup Program.

The scope of this guidance includes environmental cleanup programs and activities that support the lease or transfer of real property at Fast Track Cleanup locations under statutes, regulations, and other authorities including, but not limited to, the following:

Base Realignment and Closure Acts: Provide for closing and realigning of military installations based on revised force structure needs. Selection of bases occurred in 1988 (BRAC I), 1991 (BRAC II), 1993 (BRAC III) and 1995 (BRAC IV).

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA): Mandates the restoration of all facilities where hazardous substances have been released and present a threat to public health and the environment. DoD is responsible for the restoration of all facilities that it has owned or operated where hazardous substances from its operations have been released into the environment as well as those facilities where hazardous substances from its operations have come to be located. CERCLA section 120(h) contains provisions which impact the transfer or lease of federally owned property based on storage, disposal, or known release of hazardous substances. All contracts for transfer or lease must include notice of this storage, disposal or release. Under CERCLA section 120(h)(3), transfers of certain property by deed must also include a covenant by the United States that all remedial action necessary to protect human health and the environment has been taken prior to transfer, a covenant by the United States to undertake any further remedial action found to be necessary after transfer, and a clause granting access to the transferred property in case remedial action or corrective action is found to be necessary after transfer.

Community Environmental Response Facilitation Act (CERFA): CERFA amends CERCLA section 120 in an effort to facilitate base closure and reuse; however, it also affects a broad range of federal real property transfers. CERFA requires that DoD identify "uncontaminated parcels." For BRAC I and BRAC II bases on the

NPL, the identification by DoD and concurrence by EPA was to be completed within 18 months of CERFA's enactment, i.e., April 19, 1994. For property on military bases designated for closure under BRAC III, the identification and concurrence was to be completed by March 27, 1995. For property on military bases designated for closure under BRAC IV, the identification and concurrence is due to be completed by March 1997. While the mandated period for these installations to identify parcels as uncontaminated expired or expires on certain dates, the obligation to obtain concurrence continues beyond these dates.

Under CERCLA section 120(h)(4), "uncontaminated" parcels are those "on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of." EPA issued guidance on the implementation of CERCLA section 120(h)(4) on April 19, 1994. The guidance allows, in certain cases, for parcels to be identified as uncontaminated although some limited quantity of hazardous substances or petroleum products has been stored, released or disposed of, if there is no indication that the activity associated with the storage, release, or disposal has resulted in a threat to human health or the environment.

For parcels requiring remediation, CERFA clarifies CERCLA section 120(h)(3) to allow transfer by deed at the point when the successful operation of an approved remedy has been demonstrated to EPA.

Resource Conservation and Recovery Act (RCRA) : At closing installations that are subject to RCRA Corrective Action, the regulations provide for regulatory involvement in the identification and cleanup of Solid Waste Management units as well as the closure of RCRA-regulated hazardous waste units. In those states that do not have authorized Corrective Action programs under the Hazardous and Solid Waste Amendments (HSWA), EPA is responsible for the oversight/enforcement of corrective action by the owner/operator of the facility.

National Environmental Policy Act (NEPA) : Although the decision to close or realign installations is not subject to NEPA, DoD is required to follow NEPA requirements during the process of property disposal and during the process of relocating functions from one installation to another. Under Section 309 of the Clean Air Act, EPA reviews all NEPA documentation. In addition, EPA will in some cases be a cooperating Agency in the preparation of NEPA documents.

The Agency's role in supporting the Fast Track Cleanup Program

will be carried out concurrently with its responsibility under various statutes and other authorities to ensure compliance with requirements that protect human health and the environment. However, Agency enforcement actions, such as issuing unilateral orders under RCRA, CERCLA, or other environmental statutes, will not be funded by the Fast Track Cleanup resources provided by DoD.